

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS HERLIHY, :
Plaintiff, :
: CIVIL ACTION
v. : No. 2:19-cv-01283-AB
: AFAB INDUSTRIAL SERVICES, INC., :
et al., :
Defendants. :
:

ORDER

AND NOW, this 4th day of November, 2021, on consideration of the attached letter, Defendants are **ORDERED** to produce to the court Defendants' First Request for Production of Documents and Plaintiffs' responses to Defendant's First Request For Production, as referenced in Defendants' Motion to Compel (ECF No. 43), by **Monday, November 8, 2021**.

It is further **ORDERED** that all deadlines in the case are stayed and will be rescheduled pending the resolution of Defendants' Motion to Compel.

s/ANITA B. BRODY, J.
ANITA B. BRODY, J.



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Chambers of Judge Anita B Brody@paed.uscourts.gov

October 28, 2021

The Honorable Anita B. Brody
United States District Court
For the Eastern District of Pennsylvania
601 Market Street, Rm. 7316
Philadelphia, PA 19106-1797

RE: Thomas Herlihy v. AFAB Industrial Services, Inc., Ruffin Soils, Inc and
Everett L Farr, III
U.S. District Court (EDPa) Civil Action No. 2-19-cv-1283-AB
C&H File No. 6347-53774

Dear Judge Brody:

This letter is written on behalf of the Plaintiff and the Defendants in the above captioned matter.

Presently pending before the Court is Defendants' Motion to compel the production of documents from the Plaintiff. The Plaintiff filed an Objection to the Motion and Defendants filed a Reply. The Parties consider the pleadings on this discovery matter complete and ready for oral argument, or in the alternative, consideration by the Court on the pleadings.

The Parties have also been working to segregate the more than 3000 documents exchanged to date by topic with reference to chronological order and party index numbers. This process has been, unfortunately, delayed again. Personally, in August, I was again hospitalized for surgery for an infection on my hand. Then, unexpectedly at the end of September I experienced a second infection, but this time in my eye. Medical treatment is ongoing. The treatment plan has affected my vision and slowed my professional work. This week, counsel for Plaintiff informed me that he too has been experiencing medical issues which also has slowed his professional work.

The resolution of the discovery dispute and the segregation of documents will enable the parties to thereafter proceed with the deposition of the parties and non-party witnesses, following, of course, proper COVID safeguards.

Considering the above, counsel propose the following actions:

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1. that the Court inform whether the Court will schedule oral argument or whether the Motion to Compel will be decided on the pleadings,
2. that the Order setting the discovery deadline be extended until the date of the entry of an Order deciding the Motion to Compel,
3. that if the Motion to Compel is denied that the discovery deadline be set 90 days from the date of the Order, and
4. that if the Motion to Compel is granted that the discovery deadline be set 90 days after the deadline date for Plaintiff to comply with the delivery of documents identified in the Motion.

This letter has been reviewed and approved by counsel for Plaintiff.

Our appreciation is extended to the Court for its understanding of the personal circumstances of counsel and their efforts to conclude the production of documents and move forward with depositions.

Respectfully,



Robert Szwajkos
For Curtin & Heefner LLP

RSZ:ns

cc. Christopher A. Macey, Esquire